

Book I.
Title V.

Concerning Heretics and Manichaeans and Samaritans.
(De haereticis et Manichaeis et Samaritis)

Bas. 1.1.22.

Headnote.

The Samaritans were an off-shoot of Judaism, tinged with Orientalism, and still expecting the Christ. Millmann, The History of Christianity 800, et. seq. Manichaeism made its appearance in Persia about the middle of the third century. Its adherents believed in Oriental pagan or Babylonian-Chaldaic theosophy, clothing their thought in Christian language.

1.5.1. Emperor Constantine to Dracilianus.

The privileges which have been granted in consideration of religion should avail only the adherents of the Catholic faith. We do not alone want to deprive heretics of these privileges, but also to bind and subject them to various burdens.

Given at Gerastum September 1 (326).

C. Th. 16.5.1.

1.5.2. Emperors Gratian, Valentinian and Theodosius to Hesperius, Praetorian Prefect.

Let all heresies forbidden by law and by divine and imperial constitutions remain forever suppressed, and let no one any longer attempt to teach or learn heathen precepts which he may have discovered. Their bishops shall not dare to inculcate a faith which they do not have (themselves) nor appoint ministers, because¹ they are not (themselves). That kind of audacity must not be neglected, nor permitted to increase by connivance of judges or of those to whom, by the constitution of our predecessors, the care in regard to this subject has been entrusted. 1. Under the term heretic are contained, and to the laws enacted against them should be subject, those who are found to deviate from the doctrine and path of the Catholic religion even by a slight indication.

Given at Milan August 7 (379).

Note.

See C. Th. 16.5.24 & 28.

1.5.3. Emperors Arcadius and Honorius to Clearchus, City Prefect.

All heretics must take notice that they are without question to be deprived of all places, whether held under the name of churches, vestries (diaconica) [see Smith & Cheetham, Dictionary of Christian Antiquity under "Diaconicum."] or ecclesiastical prisons (decanica) [see id. under "decanicum"] or private houses where opportunity for their meetings is furnished. All these buildings or private structures are to be claimed for

¹ "Because" has been penciled in over the original "which." Scott translated this thought as "and let no bishops venture to teach the faith which they do not profess, and appoint ministers which are not such." 6 [12] Scott 63.

the Catholic Church. 1. In addition to this we forbid all those to meet in profane assemblies, either day or night, for the litany. A punishment of a fine of 100 pounds of gold shall be inflicted on the officials of Your Sublimity, and a fine of 50 pounds on the officials of the president, if they permit anything of the sort to be done either in public or in private places.

Given at Constantinople March 2 (396).

1.5.4. The same Emperors and the emperor Theodosius to Senator, Praetorian Prefect.

We persecute the Manichaeans or Donatists with just severity. So this kind of men shall have nothing in common with the rest either in custom or in laws.

1. And in the first place we want (the fact of being such) to be a public crime, because the wrong committed against divine religion brings detriment to all. We pursue them also by confiscation of their property. We permit it to be given, however, to their nearest relatives, in such a way that the order of the heirs in the ascending, descending and collateral line of cognates as far as the second degree shall be observed the same as in inheritance successions, and we permit them to take the property only if they are not themselves polluted by an equal guilt.

2. Further, we do not want them (the Manichaeans and Donatists) to be able to take any gift or inheritance, free from whatever source that may come.

3. Besides, we leave to no one who is convicted (of such heresy) any power of giving, buying or selling anything or even of making contracts.

4. The inquisition shall extend beyond death. For if the memory of a deceased may be accused when the crime is treason, judgment should not undeservedly be suffered also in this case.

5. Therefore, the last wish of one convicted as a Manichaean shall be void, whether he expressed that wish in a testament, codicil, letter, or in any other way. In such case, too, the foregoing condition as to the grades (of heirs) above mentioned shall be in force.

6. Sons shall not become heirs, or enter upon an inheritance, unless they have abandoned the paternal depravity; but we extend forgiveness to the penitent.

7. The stings of authority will also be directed against those who protect them in their homes by unlawful help. Their servants, too, shall be free if they escape from their sacrilegious master and have passed over into the Catholic Church with greater fidelity of service.

Given at Rome April 24 (407).

C. Th. 16.5.40.

Note.

As to unlawful assemblies, see C. 1.3.15 and note and Novels appended.

1.5.5. Emperors Theodosius and Valentinian to Florentius, Praetorian Prefect.

The Arians, Macedonians, Pneumatocahi, Appollinarians, Novatians or Sabbatians, the Eunomians, Tetradiatae or Tessaescaedecatitae, the Valentinians, Montanists or Priscillianists, or Phrygians or Pepuzitae, the Marcianists, Borbarians, Messalians, Eutychians, or Enthusiasts, the Donatists, Audians, Hydroporatae, Tascodrogists, Batrachists, Hermeiecians, Photinians, Paulians, Marcellians, Ophites, Encratites, Apotactiles, Saccophori, and those who arrived at the deepest depths of crime,

the Manichaeans, shall have no permission to meet and pray anywhere in the Roman Dominion.

1. The Manichaeans must also be expelled from the cities and delivered over to capital punishment, since there must be left to them no place in which an outrage may even be committed against the elements (by magic). All the laws, which were formerly enacted and issued at various times, must forever, by renewed observance, remain in force, whether concerning gifts made to places of assembly or heretics—which they audaciously enough attempt to call churches—or left in any manner by a last testament, or concerning private houses in which they meet by the permission or connivance of the owner, to be claimed for the venerable Catholic Church, or concerning the punishment of the agent, if he has done this (giving such permission) without the knowledge of the owner, by a fine of ten pounds of gold or by exile, if he is free, or sending him to the mines—after administering lashes—if he is a slave.

2. So that the Manichaeans shall not be able to meet in any public place, build themselves so-called churches or devise any means to circumvent the laws; and they must be prevented (from doing so) by all civil and military aid, as well as the aid of curials, defenders and judges, under threat of a fine of 20 pounds of gold. The laws, too, promulgated concerning service (in the imperial government) and concerning diverse punishments upon various heretics, shall remain in full force, and no special rescript (granting exemption) shall be of any validity.

Given at Constantinople May 30 (428).

C. Th. 16.5.65.

1.5.6. The same Emperors to Leontius, prefect of the city.

Since Nestorius, the founder of a monstrous superstition has been condemned, his followers should be branded by a suitable mark of his name, so that they may not misuse the name of Christians; for as the Arians,² in a law of Constantine of blessed memory, on account of the similarity of impiety, are called Porphyrians after Porhpyrius; so the adherents of the nefarious sect of Nestorius shall be called Simonians³ so that they rightly seem to have obtained the name of the person whose crime, in deserting God, they imitated.

1. Nor shall anyone dare to have, read or copy the impious books of the nefarious and sacrilegious Nestorius written against the venerable body of the orthodox and against the decretals of the holy synod of bishops held at Ephesus; these books, we decree, shall be diligently searched out and publicly burned.

2. So that no one shall make mention of the aforesaid name in any religious discussion; nor secretly or openly furnish any meeting place, in any houses, villa or suburb to anyone of them (the Nestorians) for the purpose of holding a council; we have decided to deprive all them of every permission of holding a meeting. And all must take notice that the violator of this law will be punished by the confiscation of his property.

Given at Constantinople, August 5 (435).

² Blume has struck out a following clause which read: “are called so after Arius.” Blume had also attached a note to this clause stating: “Arius does not appear in the Krueger edition. The older editions have been followed in this respect.”

³ [Blume] The Krueger ed. has “Simoniani” instead of Nestoriani.

C. Th. 16.5.66.

1.5.7. The same Emperor to Florentius, Praetorian Prefect.

We decree that curials of all the cities, subjected to various burdensome obligations of personal and patrimonial liturgies, even those connected with burdensome military affairs,⁴ shall remain bound to their curia, no matter to what heresy they may adhere, so that we may not seem to have extended the benefit of immunity to execrable men, going about insolently (*contumeliosos ambitu*), whom we, by the authority of the constitution, desire to condemn.

Nov. Theod. 3.6.

Note.

Curials—that is to say, members of municipal councils or senates in the various cities, were bound to perform certain burdens called liturgies, some of them requiring personal services, some of them resting as a burden on property. While the position of a curial was originally an honor, it came to be a burden, and all curials came to be bound, by law, to their station, which they could not desert. Because of the great burden, many attempted to escape from this position.

Originally, as stated, an honor, even infamous persons were bound to perform their duties as curials. C. 10.32.12. And though heretics were forbidden to have positions of honor, still the burdens of a curial could not be escaped by them. The instant law, and also C. 12.32.49. Curials could not be soldiers (C. 10.32.17), but they were required to perform certain liturgies in connection with the army, as the furnishing of recruits, etc. See C. 10.32 and headnote. For the classes of liturgies, see headnote C. 10.32.

1.5.8. Emperors Valentinian and Marcian to Palladius, Praetorian Prefect.

Whoever in this sacred city or in the city of Alexandria, or in any diocese of Egypt and the other various provinces, follow the irreligious perversity of Eutyches, and who do not profess what the 318 holy fathers, founding the Catholic Church in the city of Nicea, have transmitted to us, what also the 150 other venerable bishops, who afterwards assembled in the noble city of Constantinople, as well as Athanasius and Theophilus and Cyrillus of blessed memory, bishops of Alexandria, believed; whom also the synod at Ephesus—at which Cyrillus of blessed memory presided, and at which the Nestorian error was condemned—followed in all things; whom likewise the recent venerable synod at Chalcedon followed, agreeing with the former councils of bishops in every respect, neither subtracting from, nor adding to the holy symbol, but condemning the destructive dogma of Eutyches—(all these adherents of Eutyches) must take notice that they are Apollinarian heretics; for Eutyches and Dioscorus followed with a sacrilegious bent of mind the criminal sect of Apollinaris.

⁴ This represents the translation Blume wrote in pencil and pinned to the original. He had previously penciled in other corrections. The typed original read: “We decree that the curials of all the cities, subjected to burdensome duties (to perform personal and patrimonial liturgies in connection with the military service and (other) different matters)”

1. Therefore all those who follow the perversity of Apollinaris or Eutyches must take notice that they will be visited with those punishments which were fixed by the constitutions of our divine predecessors against the Apollinarians, and subsequently by the decree of our Serenity against the Eutychians or by this august law.

2. Therefore the Apollinarians, that is Eutychians—between whom though there is a difference in name, there is identity in the depravity of heresy; the name is dissimilar, the sacrilege the same—whether in this noble city and the different provinces, or in Alexandria, or in the diocese of Egypt, who do not profess the faith of the aforesaid venerable fathers, and who are not communicants of the reverend Proterius, bishop of the city of Alexandria, who is of the orthodox faith, are forbidden to appoint or to have bishops, presbyters or other clergymen. And the Eutychians or Apollinarians who shall dare to give anyone the name of bishop, presbyter or other clergymen, or those who permit themselves to retain the priestly name so given them, shall undergo the punishment of exile and of [the] confiscation [of] their property.

3. No Apollinarians or Eutychians shall construct churches or monasteries for themselves, hold meetings or assemblies either during the day or at night, congregate either at the house or on the estate of anyone, or in a monastery or in any other place for the purpose of worship (operaturi).⁵

4. If they should do this, and it appears that it was done by the consent of the owner, then, after proof thereof, upon examination before a judge, the house or estate in which they met shall be immediately added to the imperial treasury; the monastery, however, shall be given over to the orthodox church of the city in the district in which it is situated.

5. If, however, the forbidden meetings or assemblies have been held without knowledge of the owner, but with the knowledge of his collector of rent, lessee, procurator, or manager of the estate, then the lessee, procurator or manager, or whoever else received them in the house, or estate, or monastery and permitted the illegal meetings and assemblies to be held shall, if of mean or low condition, be publicly punished by cudgels, both as a punishment to them and as an example to others; but if men of noble station, they shall be compelled to bring ten pounds of gold to our treasury as a fine.

6. Further, no Apollinarians or Eutychians shall aspire to the imperial service. And if any of them are found in any imperial service, they shall be deprived of the girdle (of office), they shall be expelled from the communion with honorable men and with the palace (officials) and they shall not dwell in any city, even in that in which they were born, nor in any hamlet or district.

7. If they were born in this noble city, they shall be banished from our sacred presence, as well as from every metropolitan city throughout the provinces.

8. Besides no Eutychians or Apollinarians shall publicly or privately call a meeting or gather a crowd in order to discuss heretical error and justify the perversity of a pernicious dogma.

9. Nor shall anyone be permitted to dictate, write, publish, or emit anything against the venerable synod of Chalcedon, or bring forth the writings of others on the same subject.

⁵ Originally, Blume had translated this last phrase as “for the purpose of following their heresy.”

10. No one shall possess books of this kind, or dare to preserve the sacrilegious memorials of their authors. If any are caught in these crimes, they shall be condemned to perpetual exile.

11. Those, moreover, who in the desire to learn shall listen to those who discuss the unholy heresy, shall incur the loss of 10 pounds of gold, which must be paid into the fisc (treasury). Nay, those who attempt to teach the prohibited doctrines shall be punished by death.

12. All writings and books, moreover, containing the destructive dogma of Eutyches, that is to say, of Apollinaris, shall be destroyed by fire, so that the very vestiges of the criminal perversity may be destroyed by the flames. For it is proper that monstrous sacrileges be stricken by commensurate punishment.

13. And the moderators of the provinces and their officials [and] staffs, as well as the defenders of cities must take notice that if they neglect that the matters which we order by this pious law are upheld or permit them to be audaciously violated, they shall pay a fine of 10 pounds of gold into the fisc, besides sustaining the loss of their good name.

Given at Constantinople August 1 (455).

1.5.9. The Emperor Leo.

Deeming it humane and pious, we permit heretics to enjoy the customary sepulture.

Given at Constantinople August 7 (457).

Bas. 1.1.28.

1.5.10. The same Emperor to Erythrius, Praetorian Prefect.

If anyone of the orthodox religion by a true or fictitious sale or by any other right or title wants to transfer lands and possession and immovable property on which churches or chapels of the orthodox faith are located to any heretic and one opposed to the orthodox faith, no such wish made either among the living or by secret determination (i.e. by testament) shall be valid, although such property has been transferred by a person of orthodox faith as vendor, or by whatever mans by some person interposed as a fictitious seller; but all documents (of transfer) of this kind shall be void as if never written.

1. For these lands and possessions which have in any manner been transferred and delivered to heretics shall be claimed for the fisc (imperial treasury).

2. Whether these lands remain in the hands of the orthodox owners or become part of the fisc, the churches and chapels located on them must be carefully and diligently restored to a good condition. For the aim⁶ of Our Serenity is always directed to the end that the temples of the omnipotent God, in which the institutions of our religion are permanently preserved shall, by faithful care, be preserved through all the recurring centuries.

3. Nor can it be doubted that if these possessions, on which the churches and chapels of the true faith are located, and where this faith is cherished, should fall into the hands of heretics, they would be deserted by them and despoiled, devoid of all worship, deprived of the sacred and customary mysteries, robbed of every splendor, no people

⁶ Blume has underlined “aim” and written above it “forethought?”.

meeting there, the clergy performing no rites therein, and these churches, from these causes, would perish, fall into ruin and be raised to the ground. For the heretics would not think of their restoration, since they do not want them to exist at all. We have enacted the present law in order to meet all this.⁷
466-472.

1.5.11. [No heading given by Blume or in Krueger]

We ordain that those who embrace the pernicious error of the Manichaeans shall have neither opportunity nor permission to remain in any place in our empire, and if they shall appear or be found anywhere, capital punishment shall be inflicted on them.
Given August 3 (487 or 510).

1.5.12. Emperors Justin and Justinian.

We have permitted heretics to meet and have their own name, so that, shamed by our patience, they would voluntarily come to their senses and return to better things.

1. But an intolerable audacity has seized them, and disregarding the sanction of law, they have intruded themselves into the imperial service which such men are clearly, by the very words of imperial orders, prohibited from doing.

2. We mean by heretics all (outside of the orthodox faith) like the execrable Manichaeans and those like them, who should, forsooth, not even be mentioned anywhere on this earth, or be seen anywhere, or pollute anything by their touch.

3. But the Manichaeans, as we have said, should be expelled, no one should tolerate their name nor overlook the fact, if anyone infected by this heresy should live in the same place with others. Every Manichaean should be put to death, wherever found.

4. We intend not only to restore and hereby make firmer the laws already enacted concerning other heretics, of whatever creed or name they may be—for we mean by heretics those who do not adhere to the Catholic Church and to our orthodox and holy faith—as well as concerning Pagans and who attempt to introduce the cult of many gods, and concerning Jews and Samaritans, but also to enact further provisions by which the safety, honor, and the good name of the adherents of the holy faith may be increased.

5. All can take notice, moreover, that, as we said, those who do not rightly worship God will even be deprived of their earthly goods.

6. We therefore forbid anyone of the aforesaid persons to obtain any position of dignity, acquire any girdle of office, civil or military, or to belong to any order whatever except to that of the so-called provincial apparitors (cohortalium). We want them to be bound to this order as though subject thereto from birth; they shall not be excused therefrom by reason of their evil faith, but they shall remain in that order, fulfill all the duties thereof, undergo every burden pertaining thereto, and be kept from every promotion, and from acting as enforcement officers in any cause public or private against orthodox Christians. Their offspring, too, shall be bound to the same lot, and shall, if they succeed in hiding for a time, be forced into it.

7. We do not permit heretics to undertake the duty either of defender or curator (father) of a city, lest under pretext of power connected therewith, they may injure the

⁷ [Blume] See also Novel 131, c.14.

other Christians and especially the reverend bishops, and lest they obtain the power to judge and to condemn.

8. We do not even permit them to become advocates, who should rightly understand the imperial precepts, in proportion as they lead a cultured life.

9. If any heretics, and above all pagans, Jews, or Samaritans, and those who are like them, hold any of the aforementioned places, and having acquired any position of rank, are either registered as advocates, or have obtained any position in the imperial service, or girdle of office, we order them to be immediately removed therefrom.

10. For we want the places mentioned to be now and forever kept unsullied by the society of such men, not only in this glorious city, but in all provinces, and throughout the world.

11. This is not all new; for in the certificates of appointment, which are issued to many officials concerning their office, it is added that the person obtaining it must be orthodox.

12. Unless that, too, seems to be a law of our enactment, which though (merely) confirmed by us is not neglected as before, when it was a dead letter;⁸ for things seem to be the property not so much of him who first found them, but of him who puts the thing found to good advantage.

13. If any violation occurs against these decrees, and anyone has possessed himself of a prohibited position, we not only declare the appointment void and forbid the acceptance thereof, but we also restrain the appointee by a fine of 30 pounds of gold.

14. If those whose duties it is to register appointments in the public register shall have learned of the perverse faith of an appointee and notwithstanding that fact admit him and do not oppose and reject him, we impose a fine of eight pounds of gold on them.

15. We do not, of course, let magistrates go unpunished if they permit those known to them to be in the prohibited list to be accepted in their service, except, forsooth, in the service as provincial apparitor, but demand of them a fine of 50 pounds of gold.

16. Whenever a fine is due by reason of any of the above mentioned provisions, the illustrious count of the imperial treasury will collect it and add it to the imperial private estate (crown domain).

17. Considering that we often enumerate the Goths among our devoted confederates whom neither nature nor their past life has given a mind (so as to be orthodox), we somewhat relax the severity (of the laws) as to them, and permit them to be our confederates and decorated with honors, as to us may seem best.

18. Knowing, moreover, that the opinions of non-orthodox parents are often at variance, the father or mother wishing to bring the children up in the orthodox faith, while the other opposes it, therefore we order that the opinion of that parent shall prevail who leads the children to the orthodox faith; by reason of which the wish of one of the parents will obtain, and there will be added that the better party will depart victorious.

19. Bringing aid, moreover, to those children whom their fathers, devoid of our holy faith, hate, although they may not accuse them (the fathers) of a crime forbidden by the laws, but because, recognizing the error of their progenitor, they adhere to the holy faith, we decide by this imperial pragmatic law, that the father shall furnish such (children) food and whatever else is necessary for sustenance, according to his means,

⁸ Blue has underlined this phrase and added in the margin “too liberal.”

nor shall he, as though inflicting punishment on them for saving their souls, neglect them while hungry and lacking the necessaries of life, so that they might be compelled, perchance—as ought not even to be said—to return to their former error through want.

20. He shall, so far as his means allow, give for his daughters, detrimentally affected for this reason, a dowry, and prenuptial gifts for his sons, against whom they can bring no objection as to any matter (other than herein mentioned) prohibited by law, and they shall give orthodox husbands to the former and orthodox wives to the latter, provided they are worthy. For it would be abominable and impious for (parents), who in every other respect are loved by their children, to become incensed against them for a cause, by the imitation, instead of punishment of whom, they would become better.

21. To enforce these provisions shall be the duty of those who occupy illustrious magistracies in this great city, so far as lies within their sphere, and of the moderators, greater or minor, in the provinces, as far as lies within their sphere.

22. The blessed archbishop, too, and the patriarch of this great city, as well as the pious bishops of the different cities, and also those who occupy patriarchal, metropolitan and minor positions shall take care that these provisions are maintained and shall take notice whether they are fully observed, and make reports to us, so that, if necessary, we may pursue the violators of these provisions concerning the orthodox faith with greater severity.

527.

1.5.13. [No heading]

If the orthodox children of heretics have committed no offense against the latter, they shall receive in full what the law leaves them in case of intestacy, and every last will to the contrary, shall be invalid. If the children, however, have committed an offense against the parents, they will be accused and punished. But even if they have wronged the parents they shall receive a fourth part of their property even contrary to the provisions of a will. These provisions shall also apply to Jews and Samaritans.

Note.

Children were entitled to a birthright portion and could not be entirely disinherited, except for certain reasons. The birthright portion was, until Justinian's amendment increased it somewhat, one-fourth of what the child would have received, had the parent died intestate. It may be noted that by the instant law, that portion was increased fourfold for orthodox children of heretical parents, if they had not wronged the parent, and they received the ordinary birthright portion if they had wronged the parent.

1.5.14. [No heading]

Heretics shall not be able to hold meetings, assemblies, or synods, or make installations, confer baptism, or have exarches or appoint anyone to or hold the offices of father or defenders (of a city)⁹ or manage any lands either by themselves or through fictitious persons, or do any act that is forbidden them. Whoever violates this shall be punished by death.

⁹ [Blume] As to city officials, see C. 10.32.

1.5.15. [No heading]

Since those who have fallen into the error of the Manichaeans deserve punishment not only while living, but should also be deprived of the right to transmit their property after death, either to persons at their pleasure or to their legal heirs in case of intestacy, we make use of this pragmatic sanction addressed to Your Magnificence, and direct that the property of those troubled by this disease (of Manichaeism) shall be investigated. If they or their descendants have children who are free from this madness, they shall be allowed to hold the property given them by law; but if any other blood-relatives or instituted heirs by testament—which is forbidden—are called to the inheritance (by them) or receive any gift from them while living, or are honored by any legacy from them, such property given or bequeathed shall be confiscated and added to the fisc (public treasury).

1.5.16. [No heading]

If any adherent of the superstition of the Manichaeans turns to the right and true faith, and after so great an indulgence of ours, and after many admonitions and the time given for penitence, he thereafter returns to his former error, or associates with or has any dealings with any adherent of the pernicious error, without immediately laying hands on him and delivering him to the glorious or worshipful or honorable judges, he shall be subject to capital punishment, shall have no refuge in any excuse and shall not be able, by any trickery to evade the punishment imposed upon him.

1. All persons in positions of rank or in the imperial service, and all members of guilds, must earnestly endeavor to discover whether one of their number is an adherent of the prohibited frenzy and to denounce such person so discovered, knowing that if any such person subject to punishment is found among them, and it shall appear that he was known to them to be such, they will not escape proper vengeance, though not adherents of the same error with him. For they who fail to denounce a known sinner are guilty with him.

2. All, therefore, must take notice that persons who have in any manner shown their penitence, but again are guilty of the criminal blasphemy of the Manichaeans will receive no clemency, but they should with a pure and steadfast mind, by the choice of better things, strive to call forth both God's clemency, as well as our favor.

3. We also ordain that if anyone has books in any way relating to the impious error of the Manichaeans and he fails to produce them so that they may be burned and completely removed from our midst, or if any such books are under any pretext whatever found in his possession, he shall likewise be subjected to proper punishment.

4. But we deem those most deserving of death who, while pretending to desert this impious error and to follow the saving doctrine of orthodox Christians, thereafter delight in the society of incorrigible men, cherish what is theirs, and together with them in any way cover up impiety (omnimodo).

5. For those who formerly took part in impious assemblies and are thereafter considered worthy of the venerable dogma of the Christians shall only then be secure when it is evident that they have nothing to do with any of those impious men of such company, or, if they have social intercourse with one of them, they have immediately denounced him and delivered him to a legal tribunal. For by this alone they show to all that they have embraced the holy and venerable dogma not in pretense, but in earnest. If they neglect these provisions and are found to have met impious persons of this kind and

have taken pains to conceal them, instead of delivering them over to the laws, they prove themselves unworthy of forgiveness, and shall pay the proper penalty imposed on the impious.

1.5.17. [No heading]

The synagogues of the Samaritans shall be destroyed, and if they attempt to erect others, they shall be punished. They can have no successors either by will or intestacy, except orthodox persons. They shall make no gift or transfer any property to anyone not orthodox; but the bishops and presidents shall see to it that they fisc will get it.

1.5.18. The same emperor.

Looking after all things useful to our subjects, we see to it above all, as the first and most necessary thing, so as to save their souls, that all sincerely revere the orthodox faith, adore and believe in the holy and consubstantial trinity, and acknowledge and venerate the holy, glorious, every virgin Mary, the Mother of God.

1. Since, therefore, we found many steeped in different heresies, we have earnestly endeavored by God-serving exhortations to lead them to a sounder belief and by imperial edicts and laws to correct the false belief which has taken possession of their minds, and to promote,¹⁰ acknowledge and honor the only true and saving faith of the Christians.

2. This was done in connection with the different heresies, especially the impious Manichaeans, of whom the Barbarites are a part and concerning whom we have enacted specific laws.

3. Our orders against the Samaritans shall also extend to the Montanists and Tascodrugis and Ophites; that is to say, that they shall not attempt to have any synagogue in which they may meet and be present at impious and ridiculous words and deeds; nor shall they be able to transmit their property as an inheritance or trust by testament or on intestacy, whether the successor be a cognate relative or an outside heir, unless perchance the person called to the succession, or who is instituted heir or is honored by a trust, embraces the orthodox faith.

4. In regard to all the other heresies—we mean by heresies all thought and veneration different from that of the Catholic and Apostolic Church and orthodox faith—we want the law heretofore enacted by us and by our father of blessed memory to be in force, in which law are defined the proper things not only concerning them, but also concerning the Samaritans and Pagans, namely, that those affected by such frenzy shall not be in the imperial service, or enjoy any position of rank, or [certainly]¹¹ under any pretense of a professor of any school divert the minds of the simple to their own error, and in this manner render them more indifferent toward the true, pure, orthodox faith, but we permit only those to teach and receive public salary who are of the orthodox faith.

5. But if anyone, in order to obtain any position in the imperial service or as advocate or a position of rank, or a public charge, embraces the true and orthodox faith only in pretense, and, promoted (to such position) by reason of such pretense, is found to have a wife and children who are adherents of a clear heresy, and fails to lead them to

¹⁰ Blume's original read "to induce them to."

¹¹ Above this phrase, Blume penciled in "certainly-utique."

knowledge of truth, we order him to be removed from such advocate's position, service, or public charge. If he secretly remains, he may not transfer any of his rights or property either by gift, contract, or last will to any heretic. The property bequeathed to heretics and the inheritance left by him to a heretic shall be taken by the fisc (public treasury). But truly orthodox Christians may receive property from him while he lives or may become his heirs after he is dead.

6. Only persons who are orthodox Christians shall be heirs to those occupying, or those who have occupied positions of rank, or in the imperial service, or as advocate, and all those who have enjoyed any kind whatever of public charge or favor, shall have only orthodox Christians as heirs, whether such heirs are children, cognate relatives, or outsiders appointed as such.

7. We entirely forbid anything to be left to a heretic as an inheritance or gift or in any other manner;¹² and if it appears that anyone has done anything of the kind, whatever has in this manner been left or given, shall be confiscated to the fisc.

8. If a heretic husband cohabits with an orthodox wife, or, on the contrary, a heretic wife has an orthodox husband, their children shall be brought up in the orthodox faith, and if it happens that some of those children become orthodox while others, for any reason remain adherents of the same or some other heresy, then only the orthodox children shall be heirs of the father and mother, and so that the others shall have no claim on the maternal or paternal inheritance.

9. If all the children of those thus cohabiting adhere to the same error, they shall be disabled to receive the inheritance from either parent, but if there is a cognate relative of whatever degree of those thus cohabiting who is orthodox faith, he shall be called to the inheritance of both; if there is none such, the imperial treasury shall receive their property. The then illustrious count of our crown domain and the corps under him must carefully inquire into the matters decreed by us and must claim the property which belongs to (the treasury) by reason of violation of the foregoing provisions.

10. And plainly, if anyone of those under our ban, that is to say, a pagan, Manichaeon, Samaritan, or a heretic, or a kin to these, should, perchance, seek a position in the imperial service or one of rank or as advocate, or any public charge, or should attempt to teach, or receive a public salary, or, in a word, do any prohibited act, and he is not denounced by the office concerned, civil or military, here or in the provinces, the offender himself shall, after he has been apprehended, be subjected to the punishment above laid down; the persons concerned who have failed to report him, whether serving on an official staff or in any other order, shall pay a fine of 20 pounds of gold for each such person, and a fine of 30 pounds of gold shall similarly be imposed on every order (concerned), military or civil, here and in the provinces.

11. But if he (the official concerned), has pursued the heretic and has demanded the penalty and has shown himself to have been diligent in the things ordered, but has failed to collect the penalty due from any person or in any cause, the illustrious count of the crown domain shall collect and receive it and turn it into the crown domain, knowing

¹² Blume has penciled in above an alternative which, after "forbid" reads: "parties to become their beneficiaries; that it to say, to be left anything..." Forbidding Christians to be the beneficiaries of heretics would seem to be contrary to the spirit, and other provisions, of this law, however.

that if he, through the corps of palace officials under him, and the corps itself, fail to investigate such matters and to summon the guilty, the former shall pay a fine of 50 pounds of gold, and the members of the corps itself, aside from the corporal punishment which is due in such case, will incur the risk of a fine imposed on them if they do not pay attention to our orders.

12. The same duty is imposed on the pious bishop of each city, who shall investigate in the different cities the attempts made by anyone in violation of this, our imperial law, and shall make them known to the honorable rector of the province, so that the latter may enforce our pious orders. If the reverend bishops find that the moderator of the province is negligent, he should report the matter to us, so that we may subject the negligent ones to the same punishment, to which we have ordered the violators of the foregoing provisions to be subjected.

13. And be it known to the pious bishops that if they are negligent they will come before the Lord God and his judgment seat; and if they are convicted of negligence (here) they stand in danger of losing their bishopric.

1.5.19. The same Emperor to Demosthenus, Praetorian Prefect.

We know that there are many orthodox children, neither parent of whom adhere to the orthodox religion, and we therefore ordain that not only in case when one of the parents is of the orthodox faith, but that also in those cases in which both parents, that is to say the father and mother, belong to a heretic sect, only the orthodox children shall be called to the succession of their parents, either pursuant to testament or on intestacy, and receive donations or gifts from them, and the other children who, instead of embracing the love of the omnipotent God, follow the impious paternal or maternal error, shall be excluded from every benefit.

1. If there are no orthodox children, then the inheritance shall fall to the agnate or cognate relatives, provided they are orthodox.

2. If there [are] no such agnate or cognate relatives, then the inheritance shall be claimed by our fisc.

3. But lest we seem to provide only for children when progenitors are dying, but not while they are living, as has come to our ears, we impose upon such parents the necessity to nourish such orthodox children according to their means and furnish them with all things necessary for their daily existence; to give dowries for their daughters and grand-daughters and provide prenuptial gifts for their sons and grandsons; the amount thereof to be in accordance with their means, lest, for embracing the love of God, children may be robbed of paternal or maternal providential care.

4. All provisions, moreover, made in our constitutions concerning the punishments of pagans, Manichaeans, Montanists, Tascogrodi, Ophites, and other heretics, are confirmed by this law to remain in force forever.

(529).

(See also C. 1.5.12.18.)

1.5.20. The same Emperor to the count of the Crown Domain.

We have learned that impious heretics even after the enactment of our laws and our proceedings against them still dare to meet, appoint superintendents and exarches, and administer baptism, and want to enjoy the privilege of having their shops within the

sacred enclosures (of the church), the enjoyment of which becomes only those of the orthodox faith.

1. We therefore ordain that Your Magnificence shall also now prohibit them from holding any meetings in any place whatever, especially in this noble city from administering any baptism, and from misusing the name or ceremonies of the holy communion, which are appropriate only for those who venerate the true faith and cherish, as is becoming, the venerable name of Christians.

2. Neither do we permit those, who have their shops within sacred enclosures, to enjoy any privileges on account thereof, knowing that if after this imperial decree they do anything hitherto prohibited, or, either in this imperial city, or in other places, hold meetings or baptisms, or administer communion to each other, or do anything that is prohibited, they will suffer the penalties which the violators of the laws and those who fail to observe the intent thereof must suffer, those who furnish them with houses for the purpose of holding meetings knowing that they will suffer the penalty prescribed by former laws.

3. The foregoing are general provisions concerning all heretics. As to the impious Montanists, we specially order that none of their so-called patriarchs, associates, bishops, presbyters, deacons, or other clergymen, if, indeed, they should be called by those names, shall be permitted to remain in this noble city, but all shall be expelled, lest some simple folk, hearing their absurd fables, and following their impious doctrines, should lose their souls.

4. Neither do we allow them to do any business within the sacred enclosures of the church) lest the holy mysteries of the orthodox faith may be divulged to these profane people who are unworthy to hear any holy and pure sound.

5. Their impious revelries and their impious and damnable banquets, during which they attempt to captivate the minds of simple folk, are also forbidden. For it ought to be forbidden that those who have turned away from them to the true faith should again wickedly associate with those affected by this sickness, and, perchance, through this association and manner of living, again return to their former error.

6. We also forbid them to deal in slaves, lest, by delivering them over to the associates of their faith, they may seduce them to their own perversity.

7. We likewise forbid that alms be given in the name of honorarium, as they are called, to the adherents of the superstition of the Montanists, which (donations) are accustomed to be given by the highest judges and the holy Great Church on account of pressing need, since it is not proper that such donations be given to adherents of the above mentioned superstition—a superstition containing nothing rational or right, but justly odious to and condemned by all; and if anyone gives them aid without good reason, he shall be punished by a fine of 10 pounds of gold.

8. We want all these provisions maintained by Your Magnificence and by the rectors of the people (provinces), the same penalty (above mentioned) hanging over the official staff under you and over the provincial official staff if they do not observe these provisions. No less will our displeasure fall on those who hereafter occupy the magistracy now filled by Your Magnificence if they violate or permit to be violated any of the matters decreed; and the presidents also of the provinces, who are guilty hereof will likewise be punished by a fine of 10 pounds of gold.

Given at Constantinople November 22 (530).

Note.

It is apparent from this provision that shops surrounded church edifices, which were within the outside enclosures thereof. This seems to have been the custom in connection with many public places. See C. 8.11.19 and note. It may also be noted in C. 1.12.3 that various buildings and places might surround the church edifice.

1.5.21. The same Emperor to John, Praetorian Prefect.

Since many judges, in disposing of cases, have applied to us asking us to tell them what to do about heretical witnesses, whether their testimony should be accepted or rejected, we ordain that no heretic and those who cherish the Jewish superstition shall give testimony against orthodox (Christians) whether one of them is orthodox or the other.

1. But if heretics or Jews want to litigate among themselves, we permit promiscuous agreement and witnesses worthy of them to be introduced;¹³ we except, however, Manachaeans and those who are a part of them, the Borborites, and those holding to pagan superstition, and Samaritans, and those similar to them, namely the Montanists, and the Tascodroges and Ophites, to whom, on account of the similarity of guilt every legal act is forbidden.

2. And to these indeed, that is to say to the Manachaeans and Borborites, pagans and Samaritans, Montanists, Tascodroges and Ophites, the giving of testimony and other legal intercourse is forbidden. Other heretics are only prohibited from giving testimony against the orthodox, according to what has been stated.

3. We permit their testimony, however, without distinction, concerning testaments and dispositions by last wills, and contracts, in order that proof thereof will not be made more difficult.

Given at Constantinople July 28 (531).

1.5.22. The same Emperor to John, Praetorian Prefect.

We direct that our sanction, by which we ordered that no one bound by the error of heretics should receive an inheritance, legacy [or] trust shall also apply to last wills of soldiers, whether executed according to the ordinary or the military law.

Given September 1 (531).

¹³ In the typed original, this clause reads: "we permit them to use witnesses of their kind and worthy of them."